

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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October 11, 2005

Memo To Counsel Re: Green Glen Products Corp., et al. v. Fresh Marketing Services, Inc., et al.
Civil No. JFM-05-2224

Dear Counsel:

I have reviewed the memoranda submitted in connection with defendant Gary Ward's motion to dismiss or in the alternative stay proceedings.

The motion is granted on the ground that Mr. Ward has not been served with process. In making this ruling, I recognize that Ms. Roth entered her appearance on behalf of the "Defendants" on August 25, 2005. However, she did so in the context of the request for preliminary relief plaintiffs were making, and no preliminary relief was sought against Mr. Ward. In entering her appearance, Ms. Roth cooperated in expediting the litigation process, and she (and counsel similarly situated) should not be deterred from doing so in the future as would occur were I to find that Mr. Ward has been served by virtue of her technical error in entering an appearance for both defendants.

Plaintiffs should therefore now serve process upon Mr. Ward. I hope that this might be accomplished by Ms. Roth now receiving authority from him to accept service on his behalf. One way or the other, this litigation inevitably is going to proceed, and no useful purpose would be served by requiring plaintiffs to serve Mr. Ward personally.

In any event, after Mr. Ward has been served, he may file a renewed motion to dismiss or in the alternative to stay proceedings that simply incorporates the arguments made in the motion he has already filed (rather than the lack of personal service). Thereafter, plaintiffs need not file an opposition and Mr. Ward need not file a reply. I will simply decide the issues on the basis of the memoranda that have already been submitted.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge